

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**ADVISORY OPINION NO. 164**

This advisory opinion concerns whether the City's standards of conduct have been violated because the City and County Department of Public Works [DPW] cleaned a portion of private property belonging to a councilmember's family.

The facts on which this opinion is based are as follows:

1. The property belonging to the councilmember's family abuts A Street at C Street. Until about (date), the property belonging to the councilmember's family was part of C Street. At that time, the City decided to close off that portion of C Street and offered the land to the two abutting property owners, one of which was the councilmember's family. The family purchased the parcel under an agreement of sale with the City, which was fully paid in (date). Title has not passed, however, because some members of the family, listed as grantees, have died, and the property is involved in probate proceedings in State court.
2. In (date) the DPW scheduled a road cleaning crew to clean in the general area, upon a complaint that B Street (the next street parallel to A Street) was in need of a cleanup.
3. The map in use at DPW had never been changed to show the closing of A Street nor the sale by the City to the abutting landowners. Consequently, in (date), the road cleanup crew worked their way around the neighborhood, including the councilmember's family's parcel in their cleanup.
4. As a result of being brought to their attention, the DPW map has now been corrected and there will be no further cleanup scheduled for this private parcel of land.

The Revised Charter of Honolulu 1973 (1984 Ed.) [RCH] declares as the policy of the City and County the following:

Section 11-101. Declaration of Policy--Elected and appointed officers and employees shall demonstrate by their example the highest standards of ethical conduct, to the end that the public may justifiably have trust and confidence in the integrity of government. They, as agents of public purpose, shall hold their offices or positions for the benefit of the public, shall recognize that the public interest is their primary concern, and shall faithfully discharge the duties of their offices regardless of personal considerations.

In furtherance of that policy, RCH Section 11-104 requires:

Section 11-104. Fair and Equal Treatment--No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

It is the opinion of the Ethics Commission [Commission] that the councilmember is not in violation of the standards of conduct required by the RCH, for the following reasons:

1. As the councilmember was unaware that the DPW had scheduled road maintenance in the neighborhood of his family's property and was unaware that the crew intended to, or did clean up property belonging to his family, he cannot be said to have used his official position to secure special consideration beyond that available to every other person.
2. It is not the responsibility of a councilmember to verify that the map in use by DPW contained corrections and modifications to it from the sale of City property to private individuals.
3. The councilmember has recognized that the public interest is his primary concern by bringing this matter to the Commission's attention regardless of personal considerations or consequences to him.

Date: June 10, 1986

GILBERT A. GIMA  
Chair, Ethics Commission